TAXATION WITHOUT JURISDICTION UNCONSTITUTIONAL.

By DAVID A. WELLS.

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A MAJORITY of the readers of The Atlantic, after glancing at the above title, will doubtless think, if they do not openly say, "Here comes again this dry, wearisome subject of taxation! Is it not enough to be obliged to pay taxes without being continually asked to read about them? Why not exclude this whole subject from the pages of popular magazines and relegate it to the strict politico-economic, financial, or social-science journals, where those who fancy this sort of intellectual pabulum can go and be satisfied?"

As an answer pertinent in some degree to these criticisms and questions, let us suppose that at the commencement of this new year which we have entered upon, every man and woman in the nation had been personally served with an official notice that for the coming twelve months one tenth part at least, on an average, of all that he or she might produce or receive in the way of income should be taken from them as soon as earned, and expended without their direct supervision, and not unfrequently in direct opposition to their wishes! that every man who bought ten pounds of brown sugar should be collared as he left the grocery, and then and there be forced to allow two pounds to be taken out of his package! that every time a man took a chew of tobacco or lighted a cigar or indulged in a pinch of snuff, he should be tapped on the shoulder by an official and made to pay a fine! that every woman who went to buy a silk dress should have five and a half yards out of every ten cut from her purchase as she left the counter, and walked off with by some one whom she did not know! Suppose that these and a hundred other similar transactions should be made the subject of daily occurrence for the whole year, and throughout the length and breadth of the land; can it be doubted that a very considerable amount of interest would at once be awakened, and that the public, over their breakfast and dinner tables, in the press, on change, and in the streets, would very soon satisfy themselves whether it was necessary to have so much of this world's goods taken from them; whether the contributions should be forced so often, and especially whether the methods of taking were the best that could be devised? And yet substantially all that has been imagined was done every day of last year, and will continue to be done every day of the present year; and although it is not pretended that any continued discussion or any extension of popular information will do much towards hastening that millennial period when there will be no more taxes, in common with other disagreeable things, yet it is certain that continued discussion and an extension of popular information will do much in the way of speedily reforming the most important business (measured by the amount of money involved) which the country has in hand, in at least the following particulars: 1st. It will prevent more than is necessary from being taken in the way of taxation. 2d. It will put a stop to anything like arbitrary taxation, taxation without legal or territorial jurisdiction, or taxation without returning an equivalent in the way of its correlative protection to person or property — all of which proceedings are only forms of spoliation or confiscation. 3d. It will prevent anything like double taxation, or taxation at one and the same time, by conflicting jurisdictions, of one and the same property. 4th. It will do away with the necessity of resorting to oaths and declarations, and the power of making secret inquisitions into a man's personal affairs, all of which things tend to lower the standard of morality in a country more than almost any or all other agencies. 5th. It will tend in a great degree to prevent the tax payer

from becoming, as under the present system, the interpreter for himself, not only of the law, but also of the fact, in respect to his liability for taxation, and thus render it more difficult for him to become the assessor of his neighbor; for every man who takes advantage of remediable defects in the law, to evade his own share of direct taxation, thereby not only assesses some others of the community for the difference, but is helped by the community to do it.

How much of what has of late been written on this subject has been effective in promoting reform, may be an open question; but that a general interest is beginning to be awakened to the necessity of reform in the matter of State or local taxation is made evident by the facts that during the past year four States — New York, Massachusetts, Virginia, and New Hampshire — have authorized committees or commissioners to investigate and report as to what changes in existing tax laws may be expedient; and that during the past two years more essays and pamphlets have been written and published on this special topic than probably during the whole period of our previous national history.

Thus far the proposition that personal property shall be excluded from direct assessment, for the reason, mainly, that no system has ever been devised which will enable a State to tax it with any approach to uniformity and equity, has not received a full measure of popular approval, although commending itself to almost all who have taken the trouble to impartially acquaint themselves with the facts in the case. But, on the other hand, if the public has not yet interested itself sufficiently in this particular matter to form a judgment, the tax-paying portion of it, at least, are rapidly finding out that so long as we maintain a system of separate State governments, and have over all that troublesome instrument which we call the Federal Constitution, with a Supreme Court fairly and impartially to interpret its provisions, the assumption of power on the part of State officials to tax citizens for personal (movable) effects situated beyond the territory or jurisdiction of the taxing power, or, as the statute of Massachusetts has it, "*wherever they are*," is something wholly unwarranted, and that it is only a question of time, and that a brief one, of its entire abandonment.

THE SITUS OF PERSONAL PROPERTY.

This question was definitely settled by the recent decision of the United States Supreme Court in the case known under the title of State Tax on Foreign held Bonds (15 Wallace, 306, 328), in which the State of Pennsylvania attempted to tax the coupons, or interest, of mortgage bonds — the same being negotiable instruments — issued by railroads within her territory and jurisdiction, but held and owned by non-residents of the State, the exact language of the court being as follows: "*Property lying beyond the jurisdiction of the State is not a subject upon which her taxing power can be legitimately exercised. Indeed it would seem that no adjudication should be necessary to establish so obvious a proposition.*" And yet a good deal of adjudication has been necessary to get so common-sense a proposition distinctly affirmed by a court of last resort; and so firmly, moreover, has the opposite doctrine been ingrained into most of our systems of State taxation, that assessors everywhere are doubtless still acting in conformity with the old practice, and assessing citizens for property whose actual location, or *situs*, is not within the taxing district. It is time, however, that State officials should begin to understand that in thus disregarding the decision of the United States Supreme Court above quoted, they render themselves personally liable to aggrieved parties for acting without jurisdiction; and that no legislative acts of Massachusetts, Connecticut, Ohio, or any other State to the contrary will be of binding force on a tax payer in respect to listing his property, or upon assessors, or on the State judiciary; for enactments that have been adjudicated to be unconstitutional

are not laws, and are not to be obeyed. And if it should so happen that State courts should fail to give full force and effect to this same decision, a writ of error will carry any case involving the points at issue to the United States Supreme Court, and the attempted arbitrary spoliation will be defeated by the Federal court, and the decrees of the court enforced, if need be, by the whole power of the general government.

TAXATION OF PERSONAL PROPERTY A RELIC OF PERSONAL SERVITUDE.

It is interesting to here recall one of the antecedents of this so-called "personal tax," and of the fiction of law that personal property, irrespective of its situs, follows the owner, for the purpose of taxation. Its prototype was the ancient *taille*, a tax of servitude, imposed on persons originally bondmen, or on all persons who held *in farm* or *lease*, or resided on lands of the suzerain; and from which proprietors or suzerains of the land were exempt. And as no vassal could at will divest himself of servitude, or allegiance to his lord or suzerain, so the obligation to pay taxes always remained upon him as a personal servitude whatever might be the location of his property. In other words, the condition of the masses all over Europe during the Middle Ages was not unlike the condition of the slaves in the United States previous to emancipation. They (the slaves) had property in their possession, and spoke of themselves as owners of property, but in reality their property followed the condition of the servitude of their persons, and both persons and property belonged equally to the masters. The *taille*, furthermore, as a badge of servitude, was supposed to dishonor whoever was subject to it, and degrade him not only below the rank of a gentleman, but of that of a burgher, or inhabitant of a borough or town; and "no gentleman, or even any burgher," says Adam Smith, "who has stock will submit to this degradation." Now the idea embodied in the word servitude is an obligation to render service irrespective of or without compensation; and the idea upon which the taxation of personal property in this country has been heretofore based is, that the property owes a servitude to the State where the owner resides, irrespective of its actual location, in virtue of the obligation which its owner as a citizen may owe to the State by reason of the protection which the State gives him in respect to his person. But the decision of the Supreme Court in question sweeps away all these fictions and relics of old feudalism, and in conformity with the spirit of the age decides (inferentially) that if the person is to be taxed it must be solely as a person: and (directly) that if property is to be taxed it must be solely because of its actual location within the territory and jurisdiction of the taxing power. Thus the court has in fact completed the work of emancipation in the United States commenced by executive proclamation during the war, by abolishing the last remaining relic of personal servitude; and hereafter States must limit the exercise of their taxing power to persons (poll-tax), business, and property within their territorial limits.

THE RIGHT TO TAX IMPLIES AN OBLIGATION TO PROTECT.

But apart from this, it must be so clearly obvious that extra-territorial taxation is a mere arbitrary exaction, or an exercise of brute force, analogous to the power which a brigand exercises in exacting ransoms in proportion to the supposed ability of his victims, that public opinion and sound moral sentiment cannot fail to condemn it, when investigated in any community claiming to act upon principles of equality and justice. In the first place the right to tax arises from the correlative duty to protect; but if there is no jurisdiction over the property, there can be no protection, and consequently no rightful taxation. (United States *v.* Rice, 4 Wheaton, 246.) Secondly, things cannot occupy two places or two jurisdictions at the same time. "The fundamental requisite of

a well adjusted system of taxation," said Judge Comstock in giving the decision of the New York Court of Appeals in the celebrated case of Hoyt *v.* The Commissioners of Taxes, denying the right of the State of New York to tax the visible, tangible personal property of its citizens not within the territory of the State, "is that it be harmonious: but harmony does not exist unless the taxing power is exerted with reference exclusively either to the situs of the property or to the residence of the owner. Both rules cannot obtain unless we impute inconsistency to the law and oppression to the taxing power. Whichever of these rules is the true one, whichever we find to be founded in justice and the reason of the things, it necessarily excludes the other." In this case, as already intimated, the New York Court of Appeals (as far back as 1861) found the true rule to be that "the property must be within the State or there is no right to tax it at all;" and now the United States Supreme Court, in the case of the "foreign held bonds," has come to the same conclusion, and the decision thus made necessarily and forever excludes the adoption of any other rule or practice. Thus one definite and important step has at last been taken in determining what shall be the principles which are to govern in the future the method or the practice of local taxation in every State in the Union. An important prop has also at the same time been knocked out from under all systems which have as their type the system at present existing in the State of Massachusetts; and what is not less important, this prop cannot be put back again.

LOGICAL RESULTS OF THE FOREIGN HELD BONDS DECISION.

Furthermore, although the decision of the Supreme Court in the foreign held bonds case, in respect to extra-territorial taxation, is only legally applicable to States, it is nevertheless clear that through its logical results cities, towns, and even school districts, in common with States, will commit acts of spoliation by taxing any property actually situated beyond their territorial boundaries and jurisdiction. And as it will be a matter of great difficulty, if not a physical impossibility, accurately to ascertain what movable personal property was on a given day within any given taxing district of limited territorial area, or to restrain it in such a district if disposed temporarily to move off in anticipation of the day of assessment, the ultimate result will be exactly what equity and the principles of sound political economy require should be; namely, an entire abandonment of all attempts to tax personal property, and the adoption of a plan of taxing but a few articles — tangible property and fixed signs of property like real estate — in such a way that the results of the taxation will diffuse themselves with equality and uniformity not only over all personal property, but also upon all other property of every description

TAXATION OF INDEBTEDNESS.

Another matter of great importance and interest, which legitimately connects itself with the decision of the Supreme Court denying to States the power to tax extra-territorially, is the question of the taxation of indebtedness. That any State has the right to tax contracts, within her territory, between resident creditors and resident debtors *at the time when made*, cannot be doubted, whatever may be thought concerning the expediency of such taxation. But how about the constitutionality and legality of the assumption and practice, which prevails so extensively, of taxing by State authority debts to a creditor who resides in a State other than that of the residence of the debtor? And does not this assumption and practice fall within the forbidden exercise of extra-territorial taxation? In order to solve this question, it is necessary first to ascertain on whom primarily a tax on contracts falls.

It is a law of human nature, that a lender will exact from a borrower the average profits of other investments of

the same degree of security, and the tax in addition, at the time the contract is made, in an additional rate of interest, or some other form. The tax must be agreed to be paid by the borrower or he cannot get the money; and it therefore becomes a direct tax upon the contract, collected from the debtor by the creditor at the time the contract is made, whatever may be the time or manner of paying over the money by the creditor, acting as collector of taxes for the State. There are no sane persons who loan money on instruments subject to taxation in the hands of the lender at the same rate of interest as upon untaxed instruments. Taxes are in many instances assessed and collected from tenants, but nevertheless they are direct land taxes, because the burden is primarily and immediately upon the land; and for the same reason a tax, or a right or power to tax, in form on a lender, is, in legal effect and sound reasoning, a tax on a contract, and the burden is immediately sustained by the debtor simultaneously with the making and executing of the contract. This axiom of political economy has been confirmed by the United States Supreme Court in the case of Weston against the City of Charleston, in which the court declare that "a tax on stock of the United States, held by an individual citizen of a State, is a tax on the power to borrow money on the credit of the United States." This decision was given by Chief Justice Marshall, who further expressed the opinion of the court as follows: "The tax in question is a tax upon the contract. The right to tax the contract to any extent when made must operate upon the power to borrow before it is exercised, and have a sensible influence on the contract." Here then the great jurist confirms, in an actual, practical, and not hypothetical case, a fundamental principle of political economy, and in behalf of the highest court of the land decides that taxes imposed through the agency or medium of the lenders are taxes upon contracts and are immediate (not diffused or remote) burdens on the borrowing power of the debtor. Or, in other words, it was the borrower — in this case the United States — which was exempt. Now, there cannot be one principle of political economy, or of law, for individuals, and another principle or law for the United States. But primary taxation must be the same whether the subject of the tax is an United States bond or an individual bond; and if it is primary taxation of the contract and the burden is upon the borrower in one case, it must be the same in the other case.

Let us then see where we stand in respect to this assumed power of a State to tax resident creditors for debts incurred and owed to them by non-resident (State) debtors. We have certainly a clear adjudication that if Connecticut, for example, taxes, through the agency or medium of resident creditors, bonds and mortgages made in Michigan, she taxes extra-territorially debtors in Michigan. But Connecticut has no more power to tax a debtor in Michigan than she has to tax the United States. Neither is under or subject to her jurisdiction. A citizen of Michigan cannot constitutionally be prevented from making any lawful contracts in Michigan with a citizen of Connecticut; nor can Connecticut impede, obstruct, impair, or restrain such contracts, made by her citizens with the citizens of Michigan. When a citizen of Connecticut lends money, or sells and delivers commodities, to a citizen in Michigan, the money or the goods — the things tangible and visible — pass out from the territory and jurisdiction of Connecticut into the territory and jurisdiction of Michigan or some other State. If the transaction is represented simply by a book account, then the man in Michigan has the property, and the man in Connecticut has in return *a conclusion of law;* namely, that in consideration of parting with and transferring actual ownership and possession of certain specific things, he has acquired a general lien upon all of the previously unincumbered property of the purchaser to the extent of the agreed-upon value of the purchase. If the transaction, on the other

hand, is represented by a transfer of the actual property and the giving in return of a written promise to pay, in the form of a note or a bond and mortgage, then all there is in the possession of the man in Connecticut is a *contract* made outside of the territory of Connecticut by a man in Michigan. Now if Connecticut has any power to tax contracts, she must not only tax them when made, but must also confine herself to contracts made within her own territory between resident creditors and resident debtors, or she will be guilty of obstructing commerce between the States, and of taxing extra-territorially by an arbitrary exaction on *resident* creditors holding obligations of *non-resident* debtors.

TAXATION OF INTER-STATE COMMERCE PROHIBITED.

The United States Supreme Court in the case of Almy *v.* the State of California unanimously decided that a bill of lading given for goods transported from one State to another was an inter-State instrument; or, more specifically, that a stamp-tax imposed by the State of California on bills of lading for the transportation of gold and silver from any point within the State to any point without the State was "a regulation of commerce" "in conflict with the authority of Congress" and with the "freedom of transit of goods and persons between one State and another," and therefore unconstitutional and not to be permitted. But if a bill of lading, as a representative and instrumentality of inter-State commerce, cannot in any form be taxed by the States, how much greater claim for exemption from State taxation for the same reason has the lending of money by a citizen of one State to a citizen of another State, which requires the transportation of money or other property from State to State, and the making and taking of inter-State instruments as the evidence of the contract and evidence of the entire transaction? Is not the latter the very essence or life-blood, as it were, of inter-State commerce? the machinery in the absence of which inter-State commerce could hardly exist, or exist only under the most imperfect and embarrassing conditions?

Again, the power to tax inter-State commerce by a State is the power to destroy it. Can Connecticut, for example, levy a tax of ten per cent. on all of her residents who lend money in Michigan? Can she tax verbal contracts, book accounts, or written instruments arising from the delivery and sale of property passed and transferred from Connecticut to some other State? If she has the power thus to tax extra-territorially, to tax conclusions of law, or contracts arising from transactions in other States, in the slightest degree, she has it also in the fullest degree. She may fix any rate, and she may discriminate as to the States upon whose citizens the burden shall fall; or she may adopt a rate which would be prohibitory upon contracts made by her citizens with citizens of certain designated States, as her caprice might dictate. The acknowledgment or the assumption that the separate States possess this power of taxation in the slightest degree is therefore the acknowledgment or assumption that they possess the power to destroy inter-State commerce if they so will; which is a *reductio ad absurdum.*

DEBTS ARE TITLES OR CONCLUSIONS OF LAW AND NOT PROPERTY, AND HAVE NO SITUS INDEPENDENT OF THE PROPERTY WHICH IS THE SUBJECT OF THE QUALIFIED TITLE.

We now advance to another position, to which is asked the careful consideration of all those who believe that, with the necessary complications of business growing out of rapidly widening and increasing commercial relations between individuals and communities, it is most important to have the rights of State sovereignties and the obligations arising from business transactions so clearly defined and settled, as to remove them forever from the province of dispute and litigation.

In the taxation of evidences of indebtedness or titles of ownership, it is not the mere paper evidence or muniment of title to a credit that is taxed, but the credit itself, which is taxed in the form of the paper title. That this must be so is made evident by the fact that if the paper documents, even when in the form of negotiable instruments and capable of delivery from hand to hand, were regarded as salable chattels and capable of taxation where found, they would be removed to States where they are exempt, or where their presence would be unknown to the local assessors. But if a negotiable instrument is destroyed, the credit is not destroyed or impaired; for on proof of the destruction of the paper instrument, the credit still survives and can be enforced. There have been attempts to claim salvage for saving from wreck bills of exchange or other papers constituting evidence of debt or title to property; but the courts have decided that salvage in such cases is not allowable, and therefore, practically, that credits and titles are not property. (See Emblem, Davis's Reported Cases, 61.) The making of no form of indebtedness, lease, deed, mortgage, or any other form of title, creates or produces any new property, but simply indicates the rights, titles, or interests of parties in preëxisting property; and any tax on any of these titles is only another form of burdening the property which is the subject of those titles. A deed is a title to land, and a credit is a qualified lien or title to all of the debtor's property, according to certain priorities of lien. If one State taxes the land and another State taxes the deed on the valuation of the land; or if one State taxes the debtor's property and another State taxes the creditor's lien on, or title in, that property, we have an exhibition in both cases of extra-territorial taxation, or manifest spoliation. In each case the tax is put upon the property and then upon the title to the property by the taxing power of another and a hostile jurisdiction. It is also important to note here that the United States Supreme Court in the case of Fletcher *v.* Peck (6 Cranch, 87) decided that a "grant" (or deed) "is an executed contract;" and, "in its own nature, amounts to an extinguishment of the right of the grantor, and implies a *contract* not to reassert that right." If a State therefore has a general power, as is assumed in Massachusetts, Connecticut, and elsewhere, to tax contracts, it has the power to tax deeds of real estate in the hands of its citizens, and may thus practically exercise jurisdiction over the territory of any and all other sovereignties.

The inevitable judgment to which an impartial investigation of these questions must therefore lead is, that *credit, title, and ownership are not things;* but are conclusions and deductions of law from certain facts, and can no more be said to have a situs than a "baseless fabric of a vision," or a disembodied spirit, for they have no *corpus* to be located, or body to be taxed, or materiality to fill space in any State. On the other hand, the property itself of the debtor is the source of the title or debt, and is always a fund held for the security of the title of the creditor. And if this reasoning is unsound, and if the title is with the property, then the keeping of the property, which gave origin to the title, intact as a fund for the payment of the creditor is unnecessary; and if by some natural phenomenon the property should be destroyed or annihilated, it ought to be a matter of entire indifference to the title holder.

How far the United States Supreme Court has already gone in sustaining these conclusions will appear by reference to the following cases. Thus, in the case of Brown *v.* Kennedy (15 Wallace, 591) it was held that a bond and mortgage form of "credit" could be confiscated by the United States, where the mortgage debtor resides, "though in point of fact, the bond and mortgage were never in the district of the United States (the State of Kansas) where the proceedings in forfeiture took place," but were with the owner, in the rebel lines in the State of Virginia. The court, therefore, here rejected the the-

ory that a mortgage "credit" follows the owner, and has a legal situs where he resides.

In the case of Miller *v.* United States (11 Wallace, 296) the court held that the owner of railroad stock could be dispossessed of his property by constitutional and legal confiscation, by legal process served on the officers of the railroad company controlling the issue and transfer of the stock, although the share certificates of the stock remained untransferred and in possession of the owner resident in a rebel State. The court, therefore, here rejected the theory that property, as represented by railroad stocks, followed the owner and holder of the credit certificates, and had a situs where he resided. And finally, in the case of Tappan *v.* Merchants' Bank (19 Wallace, 490) the court decided, in conformity with a provision of the National Banking Act, that shares in national banks are taxable at the place where the bank is located, and not where the owner resides, thus rejecting the theory that property in national banking institutions, as represented by shares, follows the owner and holder of the title or credit certificates. The money of the non-resident shareholder, says the Chief Justice in giving the decision in this case, "is withdrawn from taxation under the authority of the State in which he resides."

IS THE OWNER OF DEBTS AN ORIGINAL PACKAGE?

Again, if the popular theory that credits due are property and not titles to property, have a legal situs, and follow the owner be the correct one, how are we to deal, in respect to taxation, with persons who change their residence from foreign countries and acquire a residence in the United States? If the credits, or the ownership of evidences of indebtedness, which they may bring with them are property, then such property must be imports, and as such exempt from all State taxation in the hands of the importer. Under this theory, who can doubt that such "imported credits" would soon become a favorite subject of importation, and that the owner would lawfully consider himself as "the original package"?

These are some of the illustrations available for exposing the utter absurdity of continuing, in the administration of government and in the practice of law, in this latter half of the nineteenth century, to adhere to antiquated and exploded legal fictions, or rather legal lies, which have outlived the purposes for which they were originally intended and used. The Romans, from whom we derive so many of our legal precedents, never taxed credits in any form; and according to Savigny they never applied the fiction that property followed the owner to any form of extra-territorial property. But we, on the contrary, in many of our States, have adopted the verbiage of the rule, without knowing or adopting the reason of the rule. We have sought and held on to the shadow, and have lost the substance. But the recent decision of the United States Supreme Court in the "foreign held bonds" case, and the irresistible logic of Chief Justice Marshall, teaching that all taxes on contracts are primary burdens on debtors, and that the question of the power to tax a contract in any person's hands is wholly dependent upon the fact of the power or jurisdiction to tax the debtor or the contract where and when made, will cause the State and National judiciary ultimately to protect persons from arbitrary exactions; and will produce a public sentiment which will stigmatize as unconstitutional and as a State crime all attempts to tax extra-territorial contracts, debtors, goods, chattels, or lands, or the income of extra-territorial property. A practical question which may here suggest itself is, How are arbitrary exactions upon inter-State obligations, or obligations made by debtors in one State due to creditors in another State, to be resisted? The answer is, By first placing the written evidence of the transaction in another State before the time of assessment; then by *certiorari* and appeal to the

highest tribunal of the State; and finally by *writ of error* to the United States Supreme Court; raising the constitutional points, that the impost in question is a tax on commerce between the States and an act of extra-territorial taxation, or a burden on contracts, business, and persons beyond the jurisdiction of the taxing State; and therefore a violation of that clause of the Fourteenth Amendment of the Constitution which declares that no State shall deprive any person of property without due process of law. (All extra-territorial taxation is without due process of law, as is held by the United States Supreme Court, in the "foreign held bonds" case already cited in this article.)

Finally, it is evident that if the assumptions here made are not correct, the opinion of Chief Justice Marshall in the case of Weston *v.* the City of Charleston (before referred to) must be reversed; and also the principle of political economy as well as of law must be denied, that the right to tax a contract is a right to tax the borrower, and that the right to levy a tax will always enter into a contract at the time when made, and thus burden the borrower: all of which is equivalent to saying that the right to tax extra-territorial contracts at the residence of the lender, in the Eastern States, is the right to tax borrowers beyond their jurisdiction, *i. e.*, in the Western States, and thus by an arbitrary assumption of power increase the price of money for the West, without giving any correlative protection to persons and contracts where the money is borrowed and secured. Legally the whole case may be regarded in the light of a *res adjudicata*, but a full recognition of the principles involved would facilitate and increase inter-State commerce and help develop the resources of the borrowing States, whose prosperity is now impeded by arbitrary exactions which are a mere survival of feudalism.